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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/997,805 | 11/30/2001 | Charles Martinka | 121 P 120 | 6621 |
| 26568 | 7590 | 02/22/2006 | EXAMINER | |
| COOK, ALEX, MCFARRON, MANZO, CUMMINGS & MEHLER LTD SUITE 2850 200 WEST ADAMS STREET CHICAGO, IL 60606 | | | MCDONALD, SHANTESE L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3723 | |

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/997,805

Applicant(s)

MARTINKA, CHARLES

Examiner

Shantese L. McDonald

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 23 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Marti or Brass in view of Litchfield.

Either Marti or Brass shows the claimed invention except for the use of a spring mounted in the slot to bias the jaws into a closed position. Litchfield suggests that a pliers tool can have such a spring mounted in the slot to bias the jaws into a closed position. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify either Marti or Brass by using a spring mounted in the slot to bias the jaws into a closed position because Litchfield suggests the use of such a spring for the purpose of biasing the pliers jaws into the closed position.

Further the use of a "stop pin", instead of a pawl or tooth, is obvious as all three are equivalent stops and function in the same manner.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Marti or Brass in view of Lichfield as applied to claim1-3 above, and further in view of Wilbur.

Either Marti or Brass as modified by Litchfield shows the claimed invention except for the use of a retaining pin mounted within the coil spring to stabilize the spring. Wilbur suggests that a pliers can have such a retaining pin mounted within the coil spring to stabilize the spring. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify either Marti or Brass by using a retaining pin mounted within the coil spring to stabilize the spring because Wilbur suggests the use of such a retaining pin mounted within the coil spring to stabilize the spring.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Marti or Brass as modified by Litchfield as applied to claim 1-3 above, and further in view of Ping.

Either Marti or Brass as modified by Litchfield, shows the claimed invention except for the construction of the tool by means of a series of riveted plates. Ping suggests that a pliers can be made by using a series of riveted plates. It would therefore have been obvious to one having ordinary skill in the art at the time the invention was made to modify either Marti or Brass by making the pliers of a series of riveted plates because Ping suggest the use of such a construction in pliers to be one well known method of construction for tools.

Response to Arguments

Applicant's arguments filed 11/23/05 have been fully considered but they are not persuasive.

The Applicant argues that the pliers of Brass and Marti are not self-sizing and do not permit one-handed operation. The Examiner notes that there is no mention in the claims of the limitation of the pliers being self sizing or permitting only one-handed operation. The Applicant also argues that there is no motivation to combine either the Marti or Brass reference with that of Litchfield. All of the Brass or Marti or Litchfield references teach a pair of pliers with jaws that pivot about a pin, screw or bolt. Litchfield teaches using a pivot pin and a spring in order to pivot the jaws relative to each other. The Litchfield reference also teaches that certain features of the invention can be applied to other tools comprising relative movable jaws. Therefore the pivot and spring or Litchfield can be applied to either Marti or Brass as a means for actuating the jaws relative to each other.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shantese L. McDonald whose telephone number is (571) 272-4486. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S.L.M.
February 13, 2006



Joseph J. Hail, III
Supervisory Patent Examiner
Technology Center 3700